

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

PETER J. ATAKPU,

Petitioner,

-vs-

WARDEN, Lebanon Correctional  
Institution,

Respondent.

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Case No. 3:06-cv-074

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District Judge Thoms M. Rose  
Chief Magistrate Judge Michael R. Merz

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS ON APPEAL *IN FORMA  
PAUPERIS***

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz, to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on July 7, 2006, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that this Court certify to the Sixth Circuit that the appeal herein is frivolous. The appellate filing fee of \$455 is hereby assessed against the Petitioner who shall pay the same not later than August 17, 2006. Failure to pay will be reported to the Court of Appeals which may dismiss the case as a result.

July 19, 2006

**\*s/THOMAS M. ROSE**

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THOMAS M. ROSE, JUDGE  
UNITED STATES DISTRICT COURT